

Staff Summary Report



To: Mayor and City Council
Through: City Manager

Agenda Item Number 34
Meeting Date: 04/12/01

SUBJECT: FREEDOM NIGHT CLUB #SIP-2001.21

PREPARED BY: Hector Tapia, Senior Planner (480-350-8331)

REVIEWED BY: Dave Fackler, Development Services Manager (480-350-8333)

BRIEF: This is the second public hearing for Freedom Night Club for a transfer of ownership for a use permit for a nightclub with live entertainment located at 919 East Apache Boulevard.

COMMENTS: **PLANNED DEVELOPMENT (0406)** Hold the second public hearing for **FREEDOM NIGHT CLUB** (Pen Johnson, property owner) for a transfer of ownership for a use permit for a nightclub with live entertainment at 919 East Apache Boulevard. The following is requested from the City of Tempe:

#SIP-2001.21 Use permit for a 10,028 s.f. nightclub with live entertainment.

Condition of Approval:

- #1. Use permit is non-transferable and is issued to the current owner of Freedom Night Club only.

Document Name: 20010412devsrh05 **Supporting Documents:** Yes

SUMMARY: On June 8, 2000, City Council approved a transfer of ownership and the Business was renamed from Club Pompeii to Freedom Nightclub. That approval included two conditions, one state that the use permit is non-transferable and the other one with a review time period until June 8, 2002. This request now is for a transfer of business ownership only and no changes are proposed on the current management or existing operation. No problems have been reported to the Police Department or Development Services during the last twelve months. The applicant has agreed and signed an updated Security Plan with the Police Department. During this application process, staff has not received any opposition or concerns regarding this request. Staff recommends approval subject to conditions.

RECOMMENDATION: Staff - Approval
Public - None

- ATTACHMENTS:**
1. List of Attachments
 2. History & Facts
 3. Description / Comments
 4. Conditions of Approval
-
- A. Location Map
 - B. Site Plan
 - C. Floor Plan
 - D. Letter of Explanation/Intent
 - E. Updated Police Security Plan, Signed 3/29/2001

HISTORY & FACTS:

<u>February 1975.</u>	Design Review Board approved the site plan and bldg. elevations for the new Sun Devil Lounge night club building at 919 E. Apache Blvd., which was relocated from the existing Holiday Inn Motel.
<u>July 14, 1975.</u>	Board of Adjustment (under Ord. 405) approved a one year variance to reduce the number of parking stalls needed on-site for the Sun Devil Lounge night club at 919 E. Apache Blvd.
<u>August 25, 1976.</u>	Board of Adjustment (under Ord. 405) denied a request to renew the variance to reduce the number of parking stalls noted above.
<u>February 23, 1977.</u>	Board of Adjustment (under Ord. 808) approved a request to reduce the size of parking stalls for the Sun Devil Lounge nightclub.
<u>April 27, 1983.</u>	Board of Adjustment approved a use permit for Clancey's Night Club to operate a penny arcade as an accessory use to the existing night club, subject to conditions.
<u>February 10, 1994.</u>	The City Council approved a use permit for Phoenix Entertainment Inc/Senior Phroggs to operate a nightclub with entertainment (dancing) subject to ten conditions.
<u>October 22, 1996.</u>	Planning Commission approved a use permit for Network One Entertainment LLC/Club Eclipse.
<u>November 22, 1996.</u>	The City Council approved a use permit for Network One Entertainment LLC/Club Eclipse operate a nightclub with entertainment (dancing) subject to ten conditions.
<u>March 12, 1998.</u>	The City Council approved a use permit for Club Pompeii to operate a nightclub with entertainment (dancing) subject to eight conditions.
<u>September 25, 1998.</u>	The City Council approved a patio expansion for Club Pompeii, subject to conditions.
<u>June 8, 2000.</u>	The City Council approved a use permit for a transfer of ownership and a time limit extension.
<u>March 29, 2001.</u>	City Council held the first public hearing on this request. Applicant signed the updated Police Security Plan.

DESCRIPTION: Property Owner - 919 E. Apache, Inc.- Pen Johnson
Business Owner – Blank Banana, LLC.
Applicant - Ryan Kibner, Blank Banana, LLC
Existing zoning - C-2, General Commercial District
Total bldg. area – 10,028 s.f.
Lot coverage - 11.1%
Total Parking required = 202 spaces
Total Parking provided – 208 spaces
Landscaping provided – 16%

Condition of Approval:

- #1. Use permit is non-transferable and is issued to the current owner of .
Freedom Night Club only.

COMMENTS: The transfer of ownership will enable the new owners to continue operating a bar/nightclub with a variety of entertainment options, including live music, dancing and a DJ. The hours of operation stay the same from 7:00 p.m. to 1:00 a.m. on Thursdays thru Saturdays. This specific location is adjacent to and shares cross access with the Holiday Inn site at Apache Boulevard and Rural Road.

The applicant and the police department have met to discuss a security plan for the business and the applicant agreed and signed an updated security plan to include the new business owners. Staff has reviewed the applicant's letter of intent and finds this request consistent with the previous approval by Council and the current operation. Staff supports the request subject to the attached conditions.

RECOMMENDATION: Staff- Approval, subject to conditions.

**REASON(S) FOR
APPROVAL:**

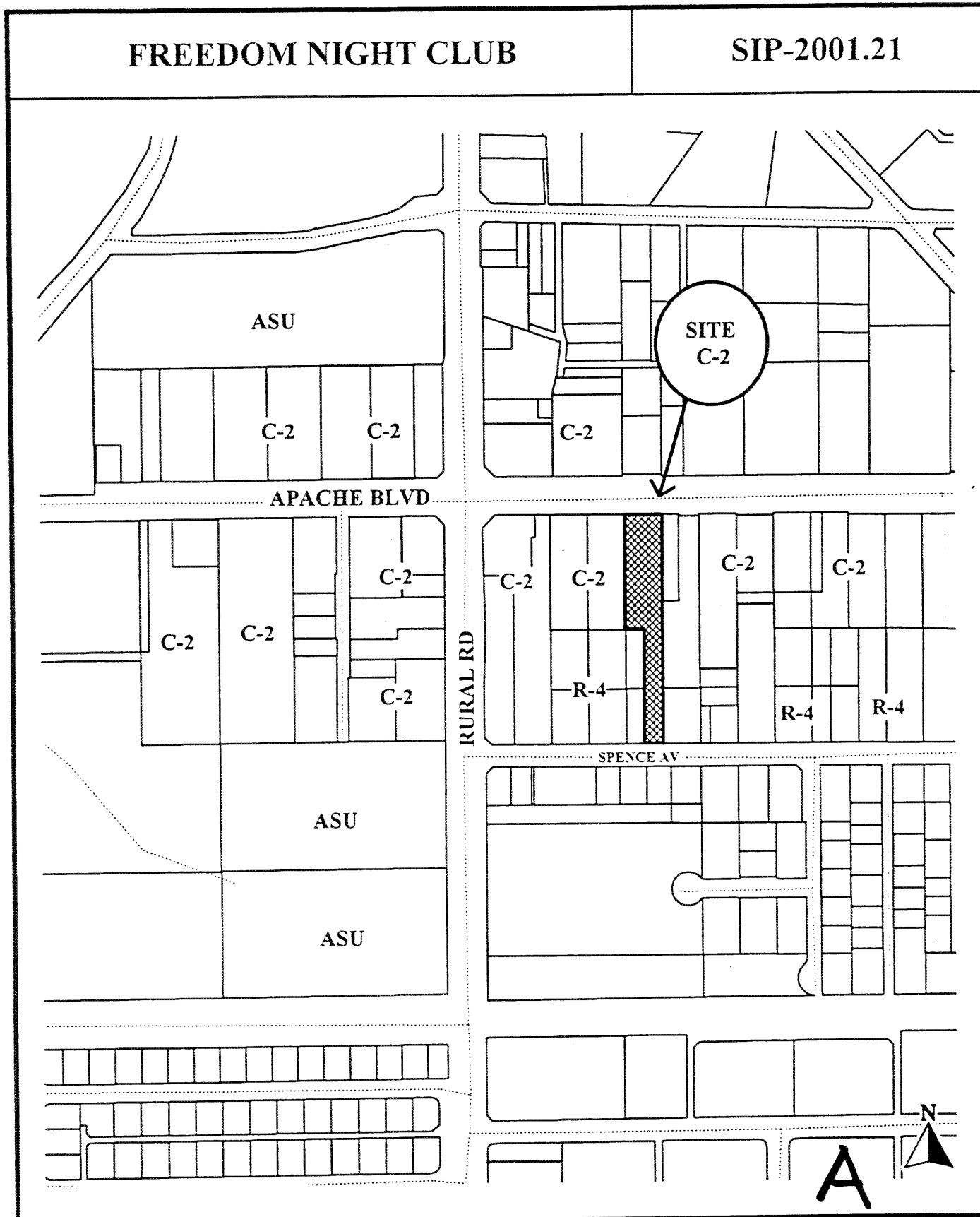
1. With a revised approved security plan and attached conditions in place, police concerns should be met and safety issues pro-actively dealt with.
2. The use permit appears to pass the required ordinance tests and if properly administered should not present any unforeseeable adverse effects.

**CONDITIONS OF
APPROVAL:**

1. Use permit is non-transferable and is issued to the current owner of Freedom Night Club only.
2. Any intensification or expansion of the use shall require the applicant to return to the City Council for further review.
4. On or before April 12, 2003, the operator/applicant shall return to City Council for review and compliance of the conditions stated within the staff report.
5. No outdoor speakers are allowed. Music generated from the live entertainment shall conform to the City of Tempe Noise Code.
6. Any significant verifiable police complaints (as determined by the City Attorney and Police Dept.) shall require the applicant to return to the City Council for re-evaluation of the use permit.
7. Security shall be provided for the business and property as per the agreement approved by the police department, Security Plan signed on March 29, 2001.

FREEDOM NIGHT CLUB

SIP-2001.21



Location Map SEE OTHER SIDE FOR MORE INFORMATION

Black Banana LLC
919 E. Apache Blvd.
Tempe, AZ 85281

February 26, 2001

Terry Mullins, Deputy Director
Development Services
P.O. Box 5002
31 East Fifth Street
Tempe, AZ 85280-5002

Re: Freedom Nightclub Transfer of Ownership

Dear Mr. Mullins:

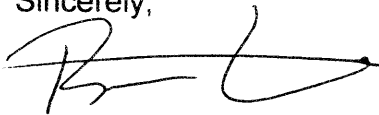
This is a letter in regards to the transfer of ownership of Freedom Nightclub from Fat Four LLC to Black Banana LLC. On February 06, 2001, Black Banana LLC signed a letter of intent to purchase Freedom Nightclub located on 919 East Apache Blvd. Fat Four wishes to sell the business that it intended to sell originally on June 6, 2000.

The new change in ownership will not cause any significant traffic to the adjacent areas. The property has more than the required parking for the building. The new owners will operate with the same type of "use" as had previous owners with more control. Security staff will have radio contact and will be patrolling the surrounding properties. Freedom will sign a security agreement with Tempe Police in order to meet the concerns of the City.

Our goal is to provide a nice, safe and comfortable dancing environment for our targeted patrons.

We look forward to continue a great relationship with Tempe and its community. Please feel free to call me if you have any questions at 602.326.0110.

Sincerely,

A handwritten signature in black ink, appearing to be 'Ryan Kibner', with a stylized, elongated final stroke.

Ryan Kibner, Director of Operations
Black Banana LLC

D

Security Plan



Police Department

120 E. Fifth Street
Tempe, Arizona 85281
(480) 350-8305
FAX: (480) 350-8493

SECURITY PLAN FOR: (Liquor)

Establishment:	Freedom at Pompeii
Address:	919 E. Apache Blvd. Tempe, AZ 85281
Business Phone:	(480) 303-6696 (480) 966-8004
Business FAX:	(480) 966-0503
Maximum Occupancy:	577 + 122 (patio)
Effective Date of Plan:	03/29/01
Date of Plan Review:	03/29/03
Use Permit Issue Date:	
Beverage License:	
Type:	Series 6
State No.:	06070125
Issue Date:	06/09/00

E

I. PURPOSE OF THE PLAN

This Plan addresses security measures for an establishment whose use shall require a Security Plan pursuant to Tempe City Code, Section 11-30.

This Security Plan's purpose is to comply with the Security Plan conditions and/or requirements set forth in a Use Permit; to address the concerns of the zoning ordinance regarding: any significant increase in vehicular or pedestrian traffic, adequate control of disruptive behavior both inside and outside the premises, compatibility with surrounding structures and uses, any deterioration of the neighborhood or to the downgrading of property values; and to assist in providing an environment which may enhance safeguarding of property and public welfare and reduce the necessity for calls for service from law enforcement agencies.

This Security Plan, when approved by the City of Tempe, is granted to the establishment as set forth in Tempe City Code, Section 11-30. A Security Plan may be required as a condition prior to the issuance of a Use Permit or City license. Deviations from or changes, modifications or alterations to the Plan shall not occur without prior written approval of the City of Tempe. **A copy of this Security Plan must be kept on the premises at all times and shall be made available upon request.**

II. PLAN OF OPERATION, PROGRAM PLAN AND HOURS

1. PERMITTEE: Black Banana L.L.C.

TYPE ORGANIZATION: ☐ Arizona Corporation ☐ Corporation
☐ Sole Proprietorship ☒ LLC ☐ Partnership ☐ Other

2. MANAGING AGENT:

Name: Ryan Kibner
Title: Director of Operations/General Manager
Address: 1896 E. Greenway Dr.
Tempe, AZ 85282
Phone: (480) 775-8422
FAX or Other Numbers: Mobile (602) 326-0110

3. BUSINESS OWNER:

Name: Julian Wright
Address: 339 E. Embassy
Tempe, AZ 85281
Phone: (480) 423-7442
FAX or Other Numbers:

3. BUSINESS OWNER:

Name: Stephen Kushnir
Address: 8214 E. Hazelwood St.
Scottsdale, AZ 85251
Phone: (602) 326-5463
FAX or Other Numbers:

4. PROPERTY OWNER or PROPERTY MANAGER (if different from Agent)

Name, Address, Phone:

Name: 919 E. Apache, Inc.
c/o Pen Johnson
Address: 919 E. Apache Blvd.
Tempe, AZ 85281
Phone: (480) 968-3451
FAX or Other Numbers:

5. HOURS OF OPERATION:

	<u>Open to</u> <u>Customers</u>	<u>Liquor Sale</u> <u>Ends</u>	<u>Close to</u> <u>Customers</u>
<u>Winter:</u>			
Sunday – Monday	Closed (open special events/holidays)		
Tuesday – Saturday	9:00 p.m.	12:55 a.m.	1:00 a.m.
<u>Summer:</u>			
Sunday – Thursday	Closed (open special events/holidays)		
Friday – Saturday	7:00 p.m.	12:55 a.m.	1:00 a.m.
<u>After Hours:</u>			
Tuesday - Thursday	1:00 a.m.		3:00 a.m.
Friday - Saturday	1:00 a.m.		4:00 a.m.
Sunday preceding holiday	1:00 a.m.		4:00 a.m.

6. PROMOTIONAL EVENTS (Ladies Night, Teen Nights, etc.):

Will Determine

7. DESCRIPTION OF OPERATIONS/SERVICES (attach or describe):

Services Provided:	Bar/Entertainment
Target Audience/Patrons:	21 and over (except after hours)
Estimated Average Attendance Per Night:	500-700
Menu:	None
Designated Driver Program:	See Attached.

8. PROGRAM FORMAT, ENTERTAINMENT (attach or describe):
Program/entertainment format, advertising.
- a. Live entertainment and live music shall terminate no later than 12:55 a.m. and only as approved in Use Permit.
 - b. Music and amplified sound (interior and exterior) shall terminate at closing and is subject to City noise and other ordinances.
9. SPECIAL EVENTS:
- a. Notice must be given by Permittee to Tempe at the address above at least fourteen (14) days prior to conducting Special Events on the premises. "Special Events" are any program formats varying from the regular format and audiences described or provided above organized or planned by Permittee. Tempe requires separate licenses for outdoor special events.
 - b. Additional security or revisions to this Plan may be required by Tempe for Special Events (program formats varying from the regular format described above).
 - c. Permittee must be separately licensed to conduct Outdoor Event/Special Events, Special Liquor License Events, Extensions of Premises [Call (480) 350-5180], After Hours or Teen Nights. See Tempe City Code for requirements.
10. COOPERATION/COMPLAINTS/CONCERNS:
- a. Permittee will maintain communications with establishments located on and adjacent to the premises, and with residents and other businesses who may be affected by patrons or operations of the Permittee. Permittee designates the following person to receive and respond to concerns or complaints from other residents or businesses:

Ryan Kibner
Name
 - b. Permittee, managing agents, on-duty managers, supervisors and security personnel will cooperate closely with Tempe police, officers and neighbors in addressing and investigating complaints and concerns.
 - c. Permittee's managing agent(s) shall meet with Tempe Police Department when requested by the Security Plan Manager or other personnel of the Tempe Police Department on matters related to this Plan.

III. **SITE/BUILDING INFORMATION**

A copy (8½" x 11") of the exterior and interior plan, description and uses is attached.

IV. GENERAL SAFETY CONDITIONS

1. Exterior entrances shall be illuminated with a minimum of five (5) footcandles of light at ground level to six (6) feet vertical between the hours of sunset and sunrise.
2. The lighting plan previously approved by the Crime Prevention Through Environmental Design (C.P.T.E.D.) staff for the parking lot and entrances/exits shall continue in effect. Failure to follow this lighting plan may cause this agreement to be void.
3. Existing exterior lamps provided on the building and in the parking areas for security of patrons and employees shall be repaired immediately when the light is not operational to maximize the lighting efficiency.
4. Only ADA locks shall be used on the restroom doors with a key bypass.
5. Light switches to restroom areas shall be inaccessible and incapable of use by anyone other than Permittee staff at all times.
6. Landscape plantings shall not conflict with the above lighting standards. Landscape plantings, including trees, shall also be maintained to allow for good surveillance.
7. Any graffiti that may appear on the Permittee's property shall be removed or covered within forty-eight (48) hours, upon discovery or when notice is given by the Police Department.
8. All fire lanes shall be properly posted and curbs painted in RED.
9. Owner/manager shall be included in Tempe's Operation Notification Program and Responsible Party information shall be kept current.
10. All debris, including glass and can containers, shall be removed from parking lots and adjacent landscape areas after closing.
11. ATM machine should have signage stating "*No access/service by employees*".
12. If the current lower level dressing room is to continue being used for VIP purposes, all door locks must be removed.
13. All exterior lamps currently in use must broadcast lighting downward or be removed.
14. Exit sign at base of main staircase leading upstairs must be replaced or repaired.
15. A Lexan 6" x 6" panel must be installed in the south exit door leading to the south parking lot.
16. Signs stating "*No Alcohol Beyond This Point*" must be placed on each patio exit gate and at all interior doors that lead outside.

17. The metal plate in the southeast exit door must be replaced with a Lexan windowpane.
18. CCTV is required in the following locations within 60 days:
 - a. Inside the front door facing the west (front) entry door.
 - b. At the south bar on the east wall facing the point of sale.
 - c. In the basement (lower level bar) on the south wall facing north to point of sale.
 - d. Placement is suggested at point of sale (north bar upstairs) and one pointed at the office door.
19. All CCTV tapes must be maintained for thirty-one (31) days.

V. PATRON PARKING, INGRESS AND EGRESS, VEHICULAR AND PEDESTRIAN TRAFFIC CONTROL

1. PARKING

- a. Parking utilized by Patrons (# spaces, description, location):
188 parking spaces + 4 ADA
- b. Parking utilized by Employees (# spaces, description, location):
10 spaces in south lot
- c. Any parking used by patrons or employees of the Permittee and any parking area of the Permittee shall be supervised by the Permittee to ensure that the parking areas are used by persons entering and exiting from their vehicles and are not used as a gathering place, for consumption of spirituous liquor, for violations of state or city law, acts of violence or disorderly conduct.
- d. Signs stating "*No Loitering*" and "*No Alcohol Consumption Permitted*" shall be posted throughout the parking area utilized by patrons. Signs shall be placed in locations visible to all patrons.

2. PATRON INGRESS/EGRESS

- a. Entrances to the premises will be continually monitored by Permittee for compliance with the maximum occupancy requirements for the premises.
- b. Patron identification shall be required and verified by Permittee prior to entry to ensure minors are not permitted on the premises when the primary use is spirituous liquor in violation of state law. Acceptable forms of identification and log verifying receipt of such identification shall conform with requirements of state law.
- c. Patrons awaiting entry shall not disrupt orderly flow of pedestrian or other traffic, block entrance to neighboring establishments or premises, or

occupy greater width than two (2) persons abreast. Permittee shall request patrons violating this paragraph to leave and shall not allow admittance to such patrons.

- d. Entrances and parking areas will be monitored by Permittee at least once each hour after 8:00 p.m. and until 1:00 a.m. or thirty (30) minutes after closing.
- e. All patrons must have exited the premises and parking areas used by patrons within thirty (30) minutes after the designated closing time.

VI. STAFFING AND OPERATIONS

1. OFFENSES AND POLICE CALLS FOR SERVICE

The Permittee agrees that it, its agents or employees will not commit or knowingly allow violations of Arizona state law or Tempe city ordinances to occur on the premises utilized by patrons of the Permittee.

Permittee will also inform patrons, through appropriate signage or other means, that acts and conduct prohibited by the following laws and ordinances are not allowed or tolerated by the Permittee on any premises or parking areas utilized by patrons of the Permittee; and that violators will be considered as trespassers by the Permittee, subject to criminal prosecution for trespass in addition to any offense charged.

- a. A.R.S. 4-101 et seq. through 4-261, as amended, Arizona Liquor Laws.
- b. A.R.S. 13-101 et seq. Arizona Criminal Code and A.R.S. 28-101 et seq. Arizona Motor Vehicle Code.
- c. Tempe City Code § 22-8, Curfew. This law sets a curfew for juveniles under the age of sixteen (16) at 10:00 p.m., and for juveniles age sixteen (16) and seventeen (17) at midnight. To comply with this law, Permittee agrees it will not allow any juveniles to remain at any location on its premises 1/2 hour prior to the curfew established in the code.

2. DEADLY WEAPONS

Permittee shall notify patrons that carrying of deadly weapons on the Permittee's premises and Permittee's parking areas is prohibited and request that weapons be removed as provided by A.R.S. 13-3102.

3. PERSONS UNDER TWENTY-ONE (21) YEARS OF AGE (This section is applicable only to establishments with a liquor license.)

The Permittee agrees that a person under twenty-one (21) years of age will not be allowed on the premises where liquor is sold, dispensed or consumed unless:

- a. The person is accompanied by a spouse, parent or legal guardian who is at least twenty-one (21) years of age or is an on-duty employee of the Permittee; OR

- b. The primary purpose of the premises is serving food; OR
- c. The primary purpose of the premises is a patron participatory recreation activity limited to the minor's participation in any of the following sport activities: bowling, golf, football, basketball or sporting event.

4. MANAGEMENT

Permittee agrees to provide a minimum number of managers (general and assistant) as indicated hereto on the premises during hours when the Permittee is open for business. On duty managers are responsible for supervision of all employees, security personnel and agents, and shall identify all employees, personnel and agents on the premises when requested by Tempe.

5. SECURITY PERSONNEL AND EMPLOYEES

- a. Permittee agrees to provide a minimum number of security personnel as indicated in the addendum hereto on the premises during hours when the Permittee is open for business or as otherwise indicated in the addendum hereto. **Security personnel shall primarily perform security functions and not serve as manager or in another capacity.**
- b. All employees managing or serving patrons, security personnel and agents of the Permittee shall be trained and knowledgeable about the contents of this Plan.
- c. Any personnel serving in security capacity on the premises (whether as employee or contractor) shall meet or exceed the requirements established by A.R.S. 32-2621 through A.R.S. 32-2636, as amended, relating to security personnel and guards, and any regulations issued pursuant thereto.

6. STAFFING FOR SECURITY PLAN

For the purpose of developing and implementing the Security Plan for approval by Tempe, Permittee hereby offers to maintain the following minimum staffing on the premises during the hours indicated during the effective term of this Plan.

- a. Operations. There shall be a manager on duty all hours while open for business and thirty (30) minutes after closing. There shall be a manager and one assistant manager on duty during peak nights (Friday and Saturday or when there are teen nights, promotional or special events). A manager shall be identified as the "Security Manager" and be responsible for insuring that a safe environment exists, for the supervision of all security personnel and that all security personnel as identified here shall meet the requirements of Section VI of their Security Plan.
- b. Additional functions performed by management: Monitor each entry door open for patrons; monitoring and patrolling exterior uses of the premises including the parking areas.

c. Security Personnel (Minimum Staffing Requirements)

1. Entry doors.
Present at each door open for entry to patrons until thirty (30) minutes after closing.
 2. Cashier for each door open when there is a cover charge.
- d. Staffing. From open until thirty (30) minutes after closing. The following staffing shall also apply to Sundays when the following Monday is a legal holiday, or when teen nights, promotional or special events are scheduled.

1.	Foyer area roamer	<u>1</u>
2.	Interior roamers	
	From opening to 10:00 p.m.	<u>2</u>
	From 10:00 p.m. to thirty (30) minutes after closing	<u>5</u>
3.	Exterior parking lots	
	From opening to 10:00 p.m.	<u>2</u>
	From 10:00 p.m. to thirty (30) minutes after closing	<u>3</u>

Parking lot security will be supplemented by off-duty police officers during business operation hours. Minimum of 2 officers during peak nights.

Permittee shall provide a copy of their policy and procedures, training documentation and overall operational plan pertaining to security.

7. SECURITY APPAREL AND EQUIPMENT

Security personnel shall display on their outer most clothing readily identifiable, and in contrasting colors, the words "Security" or "Security Personnel". Security shall be designated on the front of the clothing at least two (2) inches high, and on the back of the clothing at least four (4) inches high. Security uniforms shall not resemble Tempe law enforcement uniforms. Security uniforms shall be approved prior to use.

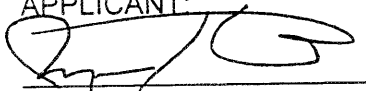
- a. All exterior security personnel shall have reflectorized vests with "SECURITY" displayed on both the front and back if the outer garment does not display "SECURITY".
- b. On-duty employees and agents shall wear clothing that readily identifies them as employees of the Permittee.
- c. Two-way radios will be provided by Permittee to all managers and exterior security personnel.

VII. CONDITIONS OF PLAN

1. COMPLIANCE WITH THE PLAN. Successful execution and enforcement of this Plan may be a requirement and condition of Tempe's Use Permit. Termination, cancellation or non-approval of the Plan constitutes a breach of any condition requiring the existence an approved Security Plan.
2. TERMINATION OF PLAN. This Plan will terminate two (2) years from the Security Plan's effective date or upon termination of the use permit. It shall be the responsibility of the Permittee to insure the continuation of the Security Plan which may be renewed for two (2) year periods. Permittee must insure the continuation of the Security Plan by contacting the Security Plan Manager or C.P.T.E.D. staff sixty (60) days prior to expiration of the Plan.
3. VIOLATIONS AND PENALTIES. No person shall operate a use, which requires a Security Plan as directed in Tempe City Code, Section 11-30, in the absence of such required Security Plan or in a manner which violates a Security Plan required by this Article, and is punishable as set forth in Tempe City Code, Section 1-7.
4. REVOCATION OF THE PLAN. The Plan may be revoked by the City of Tempe upon ten (10) days written notice to the Permittee for 1) a violation of the Plan, 2) violation of the conditions of the Use Permit, 3) violation of Tempe ordinances or law, 4) repeated acts of violence or disorderly conduct as reflected by police calls for service or offenses occurring on premises utilized by patrons of the Permittee, 5) failure of the Permittee to take reasonable steps to protect the safety of person(s) entering, leaving or remaining on the premises when the Permittee knew or should have known of the danger to such person, or the Permittee fails to take reasonable steps to intervene by notifying law enforcement officials or otherwise to prevent or break up an act of violence or an altercation occurring on the premises or on premises utilized by patrons and employees of the Permittee when the Permittee knew or reasonably should have known or such acts of violation or altercations, 6) any enlargement or expansion of the premises, plan of operation or program format without appropriate approvals from Tempe, 7) misrepresentations or material misstatements of the Permittee, its agents or employees.
 - a. Permittee may request a hearing to appeal the decision to revoke this Plan by making the request in writing addressed to the Chief of Police of the Police Department, within five (5) days of receipt of the revocation. The Chief of Police, or a designated representative, may modify, affirm or reverse the revocation.
 - b. If the Permittee is dissatisfied with the administrative review by the Police Department, the Permittee may file an appeal in writing with the City Clerk to be heard by the City Council. Any appeal shall be filed within ten (10) days of receipt of the decision of the Police Department, setting forth the reasons why the decision should not be implemented; and
 - c. The City Council, acting in its legislative capacity, may modify or remand the decision of the Police Department.

5. ASSIGNMENT OR TRANSFER. This Plan is not assignable or transferable to Permittee's successors or assigns. The Plan is automatically terminated upon sale or transfer of any interest in the Permittee.
6. SECURITY PLAN CHANGES. Any change in personnel identified in this Plan shall be reported to the Security Plan Manager or his designee within fourteen (14) calendar days after the change. Any change in the plan of operation or program shall be reported to the Security Plan Manager or his designee at least fourteen (14) calendar days prior to the change taking place and is subject to approval by the Security Plan Manager and/or C.P.T.E.D. Office.
7. MEETING REQUIREMENTS. Management of Permittee shall arrange meetings with a representative of the Tempe Police Department for their staff and security personnel pertaining to disorderly conduct, safety, I.D. verification and general security issues prior to opening, and at intervals thereafter or when deemed necessary by the Security Plan Manager or other personnel of the Tempe Police Department. A letter shall be forwarded to the Security Plan Manager with proposed meeting date(s) and number of employees attending. **Meetings throughout the year will be required as necessary. Permittee agrees to allow periodic site inspections to insure compliance with the Security Plan.**
8. A copy of this Security Plan must be kept on the premises at all times and shall be made available upon request.

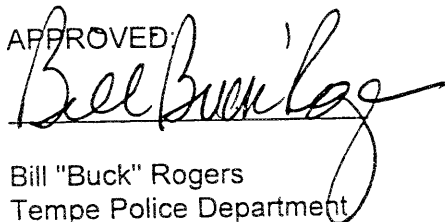
APPLICANT:



Name: Ryan Kibner
Title: Director of Operations/General Manager
Address: 1896 E. Greenway Dr.
Tempe, AZ 85282
Phone: (480) 775-8422

Date: 3-29-01

APPROVED:



Bill "Buck" Rogers
Tempe Police Department
120 East Fifth Street
Tempe, AZ 85281
(480) 350-8305
(480) 350-8493 - FAX

Date: 3/29/01